

**THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

RON TOMA, an individual,)
Plaintiff,)
vs.) Case No.:
MOTLEY CRUE, INC., a California)
corporation; KOVAC MEDIA GROUP)
INC., a California corporation, d/b/a TENTH)
STREET ENTERTAINMENT; and)
EMINOR INCORPORATED, a Delaware)
corporation,)
Defendants.) JURY DEMAND
)

COMPLAINT

NOW COMES the Plaintiff, RON TOMA (“TOMA”), by his attorney, LAWRENCE E. THOMPSON of THE THOMPSON LAW OFFICE, P.C., and respectfully states as his Complaint against the Defendants, MOTLEY CRUE, INC. (“MOTLEY CRUE”), KOVAC MEDIA GROUP INC., a California corporation, d/b/a TENTH STREET ENTERTAINMENT (“TENTH STREET”), and EMINOR INCORPORATED, d/b/a ReverbNation.com (“EMINOR”), the following:

NATURE OF THE ACTION IN BRIEF

1. This is an action by TOMA for injunctive relief and damages relating to the defendants’ copyright infringement of TOMA’s intellectual property. More specifically, TOMA possesses copyrights in certain photographic images of the members of Motley Crue, a popular band, that were created by author Michael Pinter in 1981. Defendant EMINOR has copied and/or distributed at least one of those images. Defendant EMINOR’s actions in this regard constitute copyright infringement.

2. Further, upon information and belief, MOTLEY CRUE and TENTH STREET induced EMINOR to infringe TOMA’s intellectual property. TOMA and MOTLEY CRUE were

parties to prior litigation, *Toma v. Motley Crue, et al.*, 08-cv-03479 (N.D. ILL, Closed 05/22/09) that concerned the same intellectual property. The prior litigation was resolved pursuant to a confidential settlement agreement. Upon information and belief, MOTLEY CRUE and TENTH STREET have cooperated with EMINOR in regard to the infringing activities.

PARTIES AND JURISDICTION

3. The plaintiff is a citizen of Illinois residing in DuPage County.
4. MOTLEY CRUE is a California corporation having its principal place of business in California. Upon information and belief, TENTH STREET is a California corporation having its principal place of business in California. Upon information and belief, Defendant EMINOR is a Delaware corporation having its principal place of business in North Carolina.
5. The amount in controversy, without interest and costs, exceeds the sum or value specified by 28 U.S.C. § 1332.
6. This Court has jurisdiction under 17 U.S.C. § 101 *et seq.*; 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1332 (diversity); and 28 U.S.C. § 1338(a) (copyright).
7. Venue is proper pursuant to 28 U.S.C. § 1391 and 28 U.S.C. § 1400.
8. This action arises under federal statutes. Defendants' conduct and activities were, and are, unauthorized and constitute copyright infringement under the United States Copyright Act, 17 U.S.C. § 101, *et seq.*

COPYRIGHT INFRINGEMENT

9. In 1981, Michael Pinter created original photograph images of the members of the band Motley Crue (the "Pinter Images").
10. The Pinter Images, individually and collectively, are original works subject to copyright protection under United States law. The Pinter Images include the relevant photographic images attached as Exhibit A (the "Belt Buckle Image" attached as Exhibit A-1, and the "Vince Neil Image" attached as Exhibit A-2).
11. Plaintiff acquired the copyright in the Pinter Images through written assignments which have been provided to the Copyright Office.
12. Plaintiff has registered the Belt Buckle Image and the Vince Neil Image with the Copyright Office as Reg. No. VA1642841 and Reg. No. VA1642842. See Exhibit B.

13. The defendants have infringed the copyright by publishing one or more images and/or derivatives that were copied from the plaintiff's Pinter Images including the Belt Buckle Image and the Vince Neil Image. For example, see the portion of the website: <http://www.reverbnation.com/MotleyCrue>, attached as Exhibit C.

14. The defendants have infringed the copyright by publishing one or more images and/or derivatives that were copied from the plaintiff's Pinter Images including the Belt Buckle Image and/or the Vince Neil Image, and have done so without the proper copyright notice.

15. Upon information and belief, defendants continue to infringe and/or are planning to infringe the copyright by continuing to publish the infringing images in violation of the copyright, thus causing irreparable damage.

PRAYER FOR RELIEF

Therefore, TOMA demands:

(a) for Defendants MOTLEY CRUE, TENTH STREET, and EMINOR to be enjoined from engaging in any further unauthorized infringement of plaintiff's protected photographic images;

(b) for Defendants MOTLEY CRUE, TENTH STREET, and EMINOR to account for and pay as damages to the plaintiff all profits and advantages gained from infringing the plaintiff's copyright and that the Court enter judgment in favor of plaintiff and against Defendants MOTLEY CRUE, TENTH STREET, and EMINOR for damages sustained by plaintiff in an amount to be determined at trial;

(c) for Defendants MOTLEY CRUE, TENTH STREET, and EMINOR to pay statutory damages;

(d) for Defendants MOTLEY CRUE, TENTH STREET, and EMINOR to pay the plaintiff interest, costs, and reasonable attorney's fees; and

(e) for plaintiff to be awarded any other just relief.

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JURY DEMAND

TOMA hereby demands a trial by jury on all issues and claims triable by jury.

Respectfully submitted,

Dated: September 3, 2013

RON TOMA

By: /Lawrence E. Thompson/
Lawrence E. Thompson

Lawrence E. Thompson, Esq.
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Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

A handwritten signature in cursive script that reads "Marybeth Peters".

Register of Copyrights, United States of America

Registration Number:

VA 1-642-841

Effective date of
registration:

March 25, 2008

Title

Title of Work: Too Fast for Love - Vince Neil and Group - Motley Crue

Previous or Alternative Title: Too Fast for Love

Title of Larger Work: Too Fast for Love, Phonorecord Container and Insert, 1981

Nature of Work: Photographs

Completion/ Publication

Year of Completion: 1981

Date of 1st Publication: November 10, 1981

Author

■ **Author:** Michael Pinter

Author Created: Photograph

Work made for hire: No

Citizen of: United States

Year Born: 1950

Anonymous: No

Pseudonymous: No

Copyright claimant

Copyright Claimant: Ron Toma

428 East Evergreen, Wheaton, IL, 60187

Transfer Statement: Written Assignment

Limitation of copyright claim

Previously registered: No

Certification

Name: Lawrence E. Thompson

Date: March 19, 2008



Correspondence: Yes

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Registration Number:

VA 1-642-842

Effective date of registration:

March 25, 2008

Title

Title of Work: Too Fast for Love - Vince Neil - Motley Crue

Previous or Alternative Title: Too Fast for Love

Title of Larger Work: Too Fast for Love, Phonorecord Container and Insert, 1981

Nature of Work: Photographs

Completion/ Publication

Year of Completion: 1981

Date of 1st Publication: November 10, 1981

Author

Author: Michael Pinter

Author Created: Photograph

Work made for hire: No

Citizen of: United States

Year Born: 1950

Anonymous: No

Pseudonymous: No

Copyright claimant

Copyright Claimant: Ron Toma

428 East Evergreen, Wheaton, IL, 60187

Transfer Statement: Written Assignment

Limitation of copyright claim

Previously registered: No

Certification

Name: Lawrence E. Thompson

Date: March 19, 2008

Correspondence: Yes

REVERBNATION Search Reverbnation

Motley Crue Rock / Heavy metal Los Angeles, CA Rank #2

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SONGS Play All | Queue All | Share All

Sex Like 1.4k Share Buy

Sex (Teaser) Like 798 Share

Too Fast For Love Like -28 Share Buy

Shout At The Devil Like 507 Share Buy

Looks That Kill Like -48 Share Buy

All Songs

VIDEOS

ABOUT

Members: Mick Mars Nikki Sixx, Vince Neil.

Tommy Lee

Label: Eleven Seven Records, Eleven Seven Music

Manager: 10th Street Entertainment, 10th Street Entertainment

Bio: Motley Crue is an American heavy metal band formed in Los Angeles, California in 1981. The group was founded by bass guitarist Nikki Sixx and drummer Tommy Lee, who were later joined by lead guitarist Mick Mars and lead singer Vince Neil. Motley Crue has sold more than 80 million album copies worldwide. See Full Bio

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QUESTIONS

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Rabbit Hole

PLAINTIFF'S EXHIBIT C

